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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/574,950

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Dale F McIntyre

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05/05/2005

PATENT LEGAL STAFF  
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EXAMINER

VU, NGOC K

ART UNIT

PAPER NUMBER

2611

DATE MAILED: 05/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/574,950

Applicant(s)

MCINTYRE ET AL.

Examiner

Ngoc K. Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 and 5-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment/Arguments***

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

However, upon further consideration, a new ground(s) of rejection is made in view of Fredlund et al (US 5,666,215 A) and Manowitz et al. (US 6,614,470 B1) and further in view of Shiota et al. (US 6,324,521 B1) with respect to claims 1-3 and 4-17. Upon reconsideration of the remarks filed 8/26/04 with respect to the amended claim 18, it is noted that claim 18 does not include the limitation of images are captured by the image capture device are sent to the cable TV communication as the applicant argued. The limitations of the amended claim 18 are met by teaching of Fredlund as addressed detail in this Office Action. With further respect to claim 19, Fredlund discloses sending order to a remote service provider 134 for fulfillment over communication link 40 and modems. It is noted that the communication link 40 may be standard telephone lines, an interactive cable TV network (see col. 4, lines 43-45; col. 8, lines 51-56).

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-3 and 5-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said service provider" in line 14. There is insufficient antecedent basis for this limitation in the claim.

Claim 2 recites the limitation "said cable communication unit" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitation "said server network" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 8 recites the limitation "said photographic service provider" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim.

Claim 18 recites the limitation "receiving images on said cable TV communication unit from for viewing on the monitor" in lines 6-7. It is noted that the language of the claim "receiving images on said cable TV communication unit from" is unclear. Appropriate correction is required.

Claim 18 recites the limitation "said service provider" in line 12. There is insufficient antecedent basis for this limitation in the claim.

Claim 18 recites the limitation "said broadband communication network" in line 13. There is insufficient antecedent basis for this limitation in the claim.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Fredlund et al (US 5,666,215 A).

Regarding claim 18, Fredlund discloses a method of obtaining image services (see abstract), the method comprising the steps of:

accessing a cable TV communication unit 44, said the cable TV communication unit 44 being operationally associated with a monitor 48 and a cable TV communication network (link 40 - see figures 7A-7C; col. 4, lines 37-45);

receiving images on said cable TV communication unit 44 for viewing on the monitor 48 (see col. 8, lines 24-27 and 38-42); and

selecting at least one image from said captured images viewed on the monitor 48 and requesting an order for at least one photographic service which is to be performed with respect to said at least one image using said cable TV communication unit (a program displays a graphical user interface 50 on the display device 48 that enables the customer to select one of the images for the desired photographic service and request an order the selected images using link 40 - see col. 8, lines 51-56; col. 5, lines 14-31 and lines 35-45); and

sending said at least one image to service provider 134 over broadband communication network (link 40) for fulfillment of said at least one photographic service (see col. 8, lines 51-56 and figures 7A-7C),

Regarding claim 19, Fredlund discloses sending order to a remote service provider 134 for fulfillment over said broadband communication network (see col. 4, lines 43-45; col. 8, lines 51-56).

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-3 and 5-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fredlund et al (US 5,666,215 A) in view of Manowitz et al. (US 6,614,470 B1).

Regarding claim 1, Fredlund discloses a method for requesting photographic services on images (see abstract), the method comprising the steps of:

a cable TV communication unit 44 being operationally associated with a monitor 48 (see figure 1A), said cable TV communication unit 44 being capable of communicating with a remote service provider 138/134 over a broadband communication network (40, 26, 136) (see figures 7A-7C);

selecting at least one image from said captured images viewed on the monitor 48 and at least one photographic service which is to be performed on said at least one image (a program displays a graphical user interface 50 on the display device 48 that enables the customer to select one of the images for the desired photographic service – see col. 5, lines 14-31, lines 35-37); and

sending said at least one image to said service provider 138/134 over said broadband communication network for fulfillment of said at least one photographic service (see col. 8, lines 51-56 and figures 7A-7C).

Fredlund teaches providing digital image file recorded on a disc 128 to the customer for viewing the images on computer/television 42 (see figure 7A and col. 8, lines 38-41).

Fredlund does not specifically disclose accessing the cable TV communication unit with an image capture device and forwarding the captured images to the cable TV communication unit for viewing. However, Manowitz shows that digital image input devices 106 & 110 connect to a set top box device 104 to provide the images for viewing as illustrated in figure 1 (see figure 1 and col. 2, lines 32-36 and 59-67). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Fredlund by including providing the captured images from the digital image input device to the set top box for

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displaying the images on screen as taught by Manowitz in order to present the captured images on a television in more convenient manner.

Regarding claim 2, Fredlund discloses that the cable communication unit 44 is a set top box operationally associated with a television (see col. 4, lines 38-45).

Regarding claim 3, Fredlund discloses the cable TV communication unit 44 is a set top box connected to a television set (see col. 4, lines 40-41). Fredlund does not explicitly disclose the set top box 44 is digital set top box. Official Notice is taken that digital set top box type is well known in the art. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cable TV communication unit 44 of Fredlund by including a digital set top box to provide high quality images for viewing.

Regarding claim 5, Fredlund discloses the server network comprises cable TV network 40, computer 26 and a network image server 136 (see col. 8, lines 45-56 and col. 4, lines 43-45 and figures 7A-C).

Regarding claim 6, Fredlund disclosed that the computer 26 stores a low resolution version of the image and the server 136 stores a high resolution version of the image (see col. 8, lines 45-51).

Regarding claim 8, Fredlund discloses that at least one image is routed to said photographic service provider 104 which performs said selected photographic service on said associated image (see figure 7C and col. 8, lines 55-61).

Regarding claim 9, Fredlund further discloses that the selected photographic service comprises selecting a desired size and quantity of prints of said at least one image and returning said prints to a designated customer (see Fredlund: col. 5, lines 35-38; col. 8, lines 16-24).

Regarding claims **10-11**, Fredlund further discloses that the selected photographic service comprises a desired image product which is to be associated with said at least image and returning said image product such as a mug and T-shirt to a designated customer (see Fredlund: col. 5, lines 44-51).

Regarding claim **16**, Fredlund as modified by Manowitz discloses that the digital image input device 106/110 is a digital camera (see Manowitz: col. 2, lines 59-67).

Regarding claim **17**, Fredlund and Manowitz do disclose the image input device is a hybrid digital/film camera. Official Notice is taken that hybrid digital/film camera type is well known in the art. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the combined system of Fredlund and Manowitz by including a hybrid digital/film camera to capture images without and/or with film.

8. Claims 7 and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fredlund et al (US 5,666,215 A) in view of Manowitz et al. (US 6,614,470 B1) and further in view of Shiota et al. (US 6,324,521 B1).

Regarding claim **7**, Fredlund does not explicitly disclose a cable server routing the image to a network image server via an Internet network. However, Shiota discloses that a center server 12 stores low resolution image data. If the processing requires the special equipment, the center server 12 sends an instruction information included digital image data to a laboratory server 8 in a special laboratory 4 via Internet (see figure 1 and col. 7, lines 51-55; col. 8, line 57 to col. 9, line 5; col. 9, lines 60-67). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Fredlund by routing the image from a center server to a special laboratory via Internet as disclosed by Shiota to provide the photograph service to the customers widely.



Regarding claim **12**, the combination teaching of Fredlund and Manowitz as modified by Shiota further discloses forwarding at least one image via a server network 2 to a friend (see Shiota: col. 11, lines 56-61; col. 12, lines 18-22 and figure 7).

Regarding claim **13**, the combination teaching of Fredlund and Manowitz as modified by Shiota further discloses that the friend receives the image through a further cable communication network (see Shiota: col. 2, lines 56-61 and figure 7).

Regarding claim **14**, the combination teaching of Fredlund and Manowitz as modified by Shiota further discloses that the friend receives the image through a PC 6 (see figure 7).

Regarding claim **15**, Frednlund as modified by Shiota discloses further step of entering further photographic service requests for the image from the friend (see Shiota: figure 7; col. 11, lines 50-53).

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc K. Vu whose telephone number is 571-272-7306. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ngoc K. Vu  
Primary Examiner  
Art Unit 2611

April 29, 2005